

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

PLANNED PARENTHOOD CENTER FOR
CHOICE, *et al.*,

Plaintiffs,

v.

GREG ABBOTT, in his official capacity as
Governor of Texas, *et al.*,

Defendants.

No. 1:20-cv-00323-LY

**AGREED STIPULATION FOR NON-ENFORCEMENT PENDING FINAL
RESOLUTION, ATTORNEYS FEES AND COSTS**

Plaintiff Houston Women's Clinic and Defendant Brian Middleton, District Attorney of Fort Bend County, Texas ("Defendant") in the above-styled and numbered cause stipulate as follows:

Stipulations by Plaintiff

1. Plaintiff Houston Women's Clinic stipulates and agrees not to seek attorney's fees, penalties, damages, expert fees, court costs, or other costs or expenses of any kind, from Defendant in the above-captioned and numbered case. Plaintiff further agrees to withdraw their prior request for a temporary restraining order and preliminary injunctive relief against Defendant at this time. This stipulation does not preclude Plaintiff from seeking, at their sole discretion, such injunctive relief against Defendant should Plaintiff elect to do so in the future.

Stipulations by Defendant

2. Whereas Plaintiff in the instant lawsuit challenge the constitutionality of Governor Greg Abbott's March 22, 2020, Executive Order GA 09, "Relating to hospital capacity during the COVID-19 disaster," a violation of which Defendant may enforce, and are requesting temporary injunctive relief pending final resolution of the matter, Defendant agrees not to enforce Governor Greg Abbott's March 22, 2020, Executive Order as applied to Plaintiff until such time as a final non-appealable judgment has been issued in this matter.

3. In light of the fact that the Texas Attorney General intends to defend the constitutionality of the Executive Order and its interpretation of that order on a statewide basis on behalf of the Governor, Attorney General, and other state Defendants, Defendant agrees not to

participate in litigating the above-styled and numbered cause unless required to do so. Further, by entering into this stipulation, Defendant is conserving prosecutorial resources until such time as the constitutionality of the Executive Order as applied to Plaintiff is resolved.

Stipulation on Filing of Answer by Defendant

4. Plaintiff and Defendant agree that Defendant shall not file an answer, unless ordered to do so by the Court, and that no default judgment shall be taken against him.

5. These stipulations are made without prejudice to any claim or defense that Plaintiff or Defendant may assert subsequent to this stipulation.

6. This document may be executed in counterparts.

Dated March 28, 2020

Respectfully submitted,

/s/ Justin C. Pfeiffer

JUSTIN C. PFEIFFER (SBN 24091473)

Pro Hac Vice

W.D. Tex. Admission Pending

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ATTORNEY OF RECORD FOR DEFENDANT

BRIAN M. MIDDLETON

/s/ Patrick J. O'Connell

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SIGNATURE CERTIFICATION

Pursuant to Section 14(c) of the Administrative Policies and Procedures for Electronic Filing In Civil and Criminal Cases of the United States District Court for the Western District of Texas, I hereby certify that the content of this document are acceptable to Patrick J. O'Connell and counsel for all plaintiffs, and that I have obtained counsels' authorization to affix their electronic signature to this document.

Dated April 14, 2020

Respectfully submitted,

/s/ Justin C. Pfeiffer

JUSTIN C. PFEIFFER (SBN 24091473)

Pro Hac Vice

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ATTORNEY OF RECORD FOR DEFENDANT

BRIAN M. MIDDLETON

CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2020, the foregoing document were served on counsel by CM/ECF.

DATED: April 14, 2020

/s/ Justin C. Pfeiffer

JUSTIN C. PFEIFFER